

**2002-34**

>>> <[pjellenson@aol.com](mailto:pjellenson@aol.com)> 04/10/03 11:32AM >>>

Chief Justice Maura D. Corrigan,

I am a private practitioner who represents indigent criminal defendants on appeal. I am on the MAACS roster at level 3 and therefore I handle many appeals from long and issue-laden trials.

The current rules allowing for 56 days from the filing of the transcript (with an additional 28 day extension available by stipulation and a further 28 days available by motion) for the filing of the brief provides barely enough time in which to prepare an effective brief. The proposed reduction in time will impose undue burdens upon appellate attorneys and will inevitably result in reduced quality of representation of indigent appellants.

The vast majority of criminal appeals are filed by attorneys - like myself - who are appointed by the circuit courts and handle a significant volume of cases. We require every minute of the 112 days available for filing the brief.

Please consider the following factors:

1) Our clients are imprisoned in the far corners of the state. At any given time, I may have clients waiting to see me in Jackson, Muskegon, Adrian, Saginaw, Ionia and the Upper Peninsula. We are required by ethics and agreement with MAACS to visit with each client in person. (Not to mention that a face-to-face meeting is crucial to effective representation.) I frequently need an entire day - and sometimes an entire weekend -- to drive to and from client interviews.

2) While many trials are short, I am frequently assigned appeals from trials of two weeks or more. (See, eg, COA #s 239244 and 244517) A long trial transcript, with motion hearing transcripts and a preliminary examination transcript, will take several weeks to read. In COA # 239244 - which consumed 18 days of trial, 3 days of preliminary examination and various motion hearings - I forced myself to read one volume per day. I needed five weeks just to read the transcript.

3) Time is often needed to develop off-record issues. Counsel may learn of such issues only after the client interview.

If the Court adopts the proposed rule limiting the time for filing of the brief to 42 days, I will simply turn away the more complicated cases. My duty to provide effective representation would require

that I decline such matters. I suspect that other conscientious attorneys will also decline the long or complicated appeals. This will lead to longer delays as court administrators search for attorneys willing to take on these cases.

I urge the Court to reject the proposed court rule changes. The changes will create further stress for appellate attorneys who already operate on limited resources and it will lead, inevitably, to a poorer quality of representation of indigent appellants.

Thank you

Peter Ellenson  
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cc: Chief Judge William Whitbeck, Michigan Court of Appeals  
Terry Flanagan, Administrator, MAACS